

Appl. No. 10/050,520
Amdt. dated Feb. 7, 2005
Reply to Office Action of Dec. 9, 2004

REMARKS/ARGUMENTS

By the above amendment, Applicant has rewritten all claims to define the invention more particularly and distinctly to overcome the technical rejections and define the invention patentably over the prior art.

Rejection on Drawings

The last office action rejecting the proposed amendment on drawings not showing the claimed aperture is noted. In light of the protection afforded by the remaining rewritten claims, the applicant has cancelled the feature from the appropriate claims.

Objection on Informalities

The last office action objected to informalities in claims 59, 62 and 75. The applicant has made corrections as appropriate.

The Rejection Of Claims 59, 61-67, 72, 74, 75, 77 and 79-83 On Carlson Are Overcome As The Rewritten Claims Recite Novel Physical Features

The last office action rejected the above claims as being anticipated by Carlson (U.S. Patent No. 1,317,660). The claims have been rewritten as independent claims 59 and 72 and dependent claims 60-71 and 73-83 to define patentability over this reference.

The Rejection Of Claims 59, 61-64, 68-72, 74, 75 and 77-79 On Shrader Are Overcome As The Rewritten Claims Recite Novel Physical Features

The last office action rejected the above claims as being anticipated by Shrader (U.S. Patent No. 6,311,840). The claims have been rewritten as independent claims 59 and 72 and dependent claims 60-71 and 73-83 to define patentability over this reference.

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**The Rejection Of Claims 60, 73 and 76 On Carlson in view of Trimble-Gomez
Are Overcome As The Rewritten Claims Recite Novel Physical Features**

The last office action rejected the above claims as being unpatentable over Carlson in view of Trimble-Gomez (U.S. Patent No. 5,711,425). The claims have been rewritten as dependent claims 60 and 73 to define patentability over these references.

Applicant requests reconsideration of this rejection, as now applicable to claims 59 to 83 for the following reasons:

Claim Support

Support for new limitations and amendments in the applicant's claims are shown throughout the text and drawings in the disclosure and can be found in at least one instance as follows:

- 59 b.** - Fig. 2 and [0034].
- 59 c.** - Fig. 3 and [0038].
- 59 d.** - First structural area (supportive engagement) = Fig. 2, horizontal edge at lower perimeter 154.
- 59 d.** - Second structural area (selective anti-displacement engagement) = Fig. 2, tooth 136 at pointer 138.
- 59 e.** - Fig. 1 and [0040].
- 59 f.** - First structural area (supportive engagement) = Fig. 2, upper edge of support contacting horizontal edge at lower perimeter 154 of loop member.
- 59 f.** - Second structural area (selective anti-displacement engagement) = Fig. 2, notch 112.
- 59 f.** - Engagement of loop and support, Figs. 1 and 2 and [0035].
- 59 g.** - Fig. 1 and [0064].
- 61.** - Figs. 1 and 7.
- 62.** - Fig. 1 and/or [0071].
- 68.** - [0040].
- 69.** - [0040].
- 70.** - Fig. 2, No. 122., **71.** - Fig. 1.
- 72.** - all support same as for **59**

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- 72 b.** - "...a sheet material" - [0034]
74. - same as for **61.**
75. - same as for **62.**
76. - same as for **68.,** **79.** - same as for **69.**

With regard to Carlson

- (1) The co-engaged Carlson loop and slit label do not meet the applicant's claims of a defined first structural area for supportive engagement and a defined second structural area for selective anti-displacement engagement. Both the supportive and anti-displacement engagement of the loop with the support label in Carlson occurs at the same respective structural areas. All anti-displacement engagement in Carlson is constant and non-selective and only disallows vertical displacement of the loop, which does not move the loop from a selected reminding position to a second selectable reminding position. The Carlson loop is always allowed to rotate from a selected reminding position directly to a second selectable reminding position (the shortest distance within the movement plane between said positions). Stated otherwise, the loop engaged with the deformable support at one of the selectable reminding positions is not disallowed to move along the claimed path within the claimed plane, said path representing the shortest distance within said plane, between said one selected reminding position and a second selectable reminding position. Carlson therefore also does not meet the applicant's claim (59 g and 72 e) for the anti-displacement engagement at a selected position disallowing movement along the claim path.
- (2) There is no suggestion in Carlson that the claimed anti-displacement engagement should occur at a defined second structural area or that the described movement along the path within the plane should be disallowed. It is not seen how the Carlson labels could be made to engage according to the applicant's claims without modifying both of the labels or changing the operating principal of the device.

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With regard to Shrader

- (3) The Shrader loop member does not meet the applicant's claim (independent claim 59) for a sheet in 59 b or the claim as in 59 c for deformation of the sheet to link a first portion to a second portion. The Shrader loop is not deformed from the sheet claimed by the applicant, appearing to be cast or molded into the deformable loop shown. There is no suggestion in Shrader that the Shrader loop could or should include the applicant's sheet and it is not seen how the Shrader loop could reasonably be produced from the claimed sheet. It is particularly not seen how the Shrader loop could be formed (ex. deformed across the length between the two free ends and linked) from the applicant's claimed sheet and still provide the operational characteristics, such as spring, deformability, relative rigidity and memory, required of the Shrader loop.
- (4) The Shrader loop member also does not meet the applicant's claim (independent claim 72) for material in 72 b, "...and said loop member defining a second structural area for selective anti-displacement engagement, the material forming said second structural area including a deformable sheet material". There is no suggestion in Shrader that the material forming the protuberances (Fig. 4, 24a and 24b) should include a sheet material. Given the design of the Shrader loop and the need to operate under what appears to be considerable spring tension and friction, it seems that a relatively rigid protuberance would be the reasoned choice for retention in the grooves (25). It is not seen how the material forming the protuberances could reasonably include a sheet material and still meet the design and operational requirements, much less the deformable sheet material of the claim.

With regard to Annunziata

- (5) The co-engaged Annunziata loop and support label do not meet the applicant's claims of a defined first structural area for supportive engagement and a defined second structural area for selective anti-displacement engagement. Both the supportive and anti-displacement engagement of the loop with the support label in Annunziata occurs at the same respective structural areas (i.e. their horizontal edges). All anti-displacement engagement in

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Annunziata is non-selective and only disallows vertical displacement of the loop, which does not move the loop from a selected reminding position to a second selectable reminding position. The Annunziata loop is always allowed to rotate from a selected reminding position directly to a second selectable reminding position (the shortest distance within the movement plane between said positions). The anti-displacement engagement of the Annunziata label members at a selected reminding position does not disallow the loop to move along a path within a plane, said path representing the shortest distance within said plane, between said selected reminding position and a second selectable reminding position. Annunziata therefore also does not meet the applicant's claim (59 g and 72 e) for the anti-displacement engagement at a selected position disallowing movement along the claim path.

- (6) There is no suggestion in Annunziata that the continuous loop member should be disallowed movement along the claimed path. Given the device design and objectives of the invention (Column 1, lines 16-20 & lines 32-37) it is not seen how this could be done.
- (7) There is no indication in Annunziata that consideration should be given to otherwise construct the loop member, or any cooperating members. There is strong implication to the contrary. The motivation in Annunziata is to produce a reminder device that lowers cost by utilizing a standard label (Column 1, lines 16-20 & lines 32-37). It is not seen how the Annunziata labels could be made to engage according to the applicant's claims without modifying both of the labels or changing the operating principal of the device.
- (8) The applicant therefore submits that the references do not meet the applicant's claims and that the references lack any suggestion that they be modified in a manner to meet the claims. The applicant further submits that there is no prior art other than the applicant's which suggests that the references be modified in a manner to meet the claims.
- (9) With regard to the rewritten dependent claims 60-71 and 73-83. The rewritten dependent claims incorporate all the subject matter of their respective independent claims and add additional subject matter which makes them patentable over these references.

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**The Novel Physical Features Of The Amended Claims Produce
New And Unexpected Results And Hence Are Unobvious
And Patentable Over These References Under § 103.**

Also applicant submits that the novel physical features of the amended claims are also unobvious and hence patentable under § 103 since they produce new and unexpected results over Carlson in view of Trimble-Gomez. These new and unexpected results are a simpler, and lower cost device than the combined references, and greater likelihood of adoption. The applicant's device is less complicated to assemble and affix to the container than the Carlson device, it is therefore less time consuming, resulting in cost savings. The applicant's device also appears easier to operate. Combining the references does not significantly alter the factors accounting for the differences between the Carlson and applicant devices. The applicant's device is superior to that of Carlson and to that of the combined reference.

Non-Applied References Do Not Show Applicant's Invention

The last OA cited the following as prior art of record and not relied upon.

US-6,649,007 Key,	US-6,581,773 Kaplan,	US-6,276,533 Kaplan,
US-6,032,609 Luoma,	US-5,979,698 Deal,	US-5,884,421 Key,
US-5,586,087 Silverson,	US-4,724,973 Shah,	US-3,921,568 Fish,
US-3,460,508 Baxter,	US-2,767,680 Lerner,	US-2,567,395 Petterson Jr.,
US-2,320,472 Rolnick,	US-2,111,637 Mehaffey,	US-734,991 Sterki,
US-576,834 Chapman.		

Conclusion

For all of the above reasons, applicant submits that the claims are now in proper form, and that the claims all define patentability over the prior art. Therefore the applicant submits that this application is now in condition for allowance, which action is respectfully solicited.

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Conditional Request For Constructive Assistance

Applicant has amended the claims of this application so that they are proper and define novel structure which is also unobvious. If, for any reason this application is not believed to be in full condition for allowance, applicant respectfully requests the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P. § 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I certify that on the date below I will fax this communication, and attachments if any, to Technology Center 2800 of the Patent and Trademark Office at the following central number (703) 872-9306.

Date: Feb. 15, 05. No. of pages: 13

Inventor's Signature:

